

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## HUMAN RIGHTS COUNCIL, 4<sup>TH</sup> SESSION DAILY UPDATE, 30 MARCH 2007

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### Overview

The final day of the Council was dedicated to the consideration of decisions/resolutions that were either outstanding from previous sessions of the Council, or were tabled at the present session. Whilst the Council had been behind schedule on the previous day, it had concluded its work on time by the close of the meeting, so in contrast to the situation at the second and third sessions of the Council, where a stockpile of resolutions were postponed, on this occasion the Council completed its allocated work ahead of time.

The two most lengthily discussed resolutions were those concerning the follow-up to **the situation of human rights in Darfur** (tabled by Germany on behalf of the EU and Algeria on behalf of the African Group) and **combating defamation of religions** (tabled by Pakistan on behalf of the Organization of the Islamic Conference). The joint resolution on **Darfur** was agreed upon by both regional groups very soon before the beginning of the day's meeting as a compromise text between the two separate draft resolutions previously circulated by Germany (on behalf of the EU) and Algeria (on behalf of the African Group). The text was subsequently adopted by consensus and decides to convene a group of special procedures, presided over by the Special Rapporteur on the situation of human rights in the Sudan to ensure the effective follow-up and to foster the implementation of resolutions and recommendations on Darfur. The resolution on **defamation of religions** did not, however, receive the full support of the Council on the basis that it was sought to focus on one religion above all others and that combating defamation of religions sought to protect religion and not the rights of individuals to practice their religious beliefs.

The other resolutions/decisions considered on the final day were:

- The right to development (adopted by consensus);
- Enhancement of international cooperation in the field of human rights (adopted by consensus);
- Rectification of the legal status of the Committee on Economic, Social and Cultural Rights (adopted by consensus);

- Elimination of all forms of intolerance and of discrimination based on religion or belief (adopted by consensus);
- Human rights and unilateral coercive measures (adopted by vote);
- Strengthening of the Office of the High Commissioner for Human Rights (OHCHR)(adopted by vote);
- Globalisation and its impact on the full enjoyment of all human rights (adopted by vote).

In the afternoon, the President proposed that the Council defer a number of draft resolutions, and this decision was accepted by consensus.<sup>1</sup> An unusual incident was then reported by the Secretariat, when they explained that a badge had been issued to an NGO representative by mistake, and that inquiries were underway to clarify how that could have happened.

The Secretariat<sup>2</sup> then finally introduced the report of the Session, which was also accepted by consensus. In his closing address, the President expressed his satisfaction with the work done at the 4<sup>th</sup> session, but reminded delegations that it was time to start negotiations on a number of institution-building issues if agreement was to be reached by 18 June. He reiterated his commitment to facilitate the necessary consultations until midnight on 18 June, to make sure everyone had reason to celebrate that day.

### Resolution on the follow-up to the 4<sup>th</sup> special session on Darfur

Prior to the tabling of the compromise resolution on Darfur, both Germany (on behalf of the EU) and Algeria (on behalf of the African Group) had circulated draft resolutions that varied considerably in their reading of the situation in Darfur. The eventual compromise text that appeared before the Council with the full support of both regional groups, was a variation of the final draft text circulated by Germany, removing reference to the Special Rapporteur on contemporary forms of racism as a member of the convened group of special procedures identified by Operative Paragraph 6 of the resolution.

The final resolution<sup>3</sup> took note with regret that the High-Level Mission<sup>4</sup> could not visit Darfur and took note of their report. It expressed deep concern at the seriousness of ongoing violations in the region including armed attacks, widespread destruction of villages and continued and widespread violence, in particular gender-based violence against women and girls, as well as the lack of accountability of perpetrators of such crimes. It called upon all concerned parties to put an end to all acts of violence, signatories of the *Darfur Peace Agreement* to comply with their obligations, and non-signatories to join in and commit to peace. The contribution of the resolution was to convene a group of special procedures, presided over by the Special Rapporteur on the Sudan to work with the Government of the Sudan, human rights mechanisms and the African Union to ensure the effective follow-up and to foster the implementation of resolutions and recommendations on Darfur, ‘taking into account the needs of the Sudan in this regard’, and ‘to contribute to monitoring the human rights situation on the ground.’

Germany (on behalf of the EU) stated that this decision was important for the credibility of the Council. Given the seriousness of the human rights situation in Darfur, concrete and tangible proposals were crucial to improve the situation on the ground. The draft resolution places high responsibility on the group of special procedures and thus shows how to make best use of this mechanism. Germany reminded that the first responsibility to protect human rights lies with the Government. Therefore, Operative Paragraph 8 requests the full cooperation of the Sudan. The delegate concluded by expressing her hope that the resolution would be adopted by consensus.

<sup>1</sup> Draft resolutions A/HRC/2/L.019; A/HRC/2/L.030 ; A/HRC/4/L.003; A/HRC/4/L.004; A/HRC/2/L.033; A/HRC/2/L.037; A/HRC/2/L.038/Rev.1; A/HRC/2/L.042/Rev.1; A/HRC/2/L.043 have been postponed.

<sup>2</sup> On behalf of the H. E. Mr. Mousa Burayzat, Ambassador of Jordan, Vice-President and Rapporteur of the Council.

<sup>3</sup> A/HRC/4/L.7/Rev.2, 30 March 2007.

<sup>4</sup> For a review of the presentation of the High Level Mission of its report to the Council, and the pursuant debate that surrounded it, see Daily Update, 16 March 2007, at [http://www.ishr.ch/hrm/council/dailyupdates/session\\_004/16\\_march\\_2007.pdf](http://www.ishr.ch/hrm/council/dailyupdates/session_004/16_march_2007.pdf)

Algeria (on behalf of the African Group) reiterated its concern for the situation in Darfur and co-sponsored this draft resolution because it 'deeply cares for the victims'. This draft is dynamic, as requested by the President of the Council, and includes close cooperation with the Darfur Dialogue and Consultation. The Ambassador of Algeria thanked the Sudan for its cooperation and goodwill. He highlighted that consensus had been reached with this resolution and concluded by saying that this should serve as an example as the Council should not be a battleground for the interests of States.

The Sudan, as a concerned country, declared that it had shown sincere cooperation with the Council through supporting the special session on Darfur and offering visas to all members of the High-Level Mission but one. It regretted that this cooperation was not appreciated and felt like there was a sense of double standards. It thanked countries that have helped to reach a consensus on this issue, especially the African Group. It reiterated the commitment of the Sudan to human rights and to the values of the Council.

Afterwards, 16 delegations joined as co-sponsors. A representative of the OHCHR explained that the resolution had financial implications estimated at US\$360,000. The President of the Council acknowledged the efforts made by a number of delegations to achieve conciliation, and wished that this "action-oriented" spirit would prevail. The resolution was adopted by consensus.

Four countries took the floor for explanations after the vote.<sup>5</sup> Japan and the Russian Federation welcomed the adoption of this draft resolution by consensus. Both China and the Russian Federation commented on the High-Level Mission, called on the Sudan to cooperate, and stressed that the group established in the resolution did not constitute a precedent. China pointed out the question of the legitimacy of the composition of the Mission.<sup>6</sup> The Russian Federation reaffirmed that its opinion of High-Level Mission's report remained unchanged. According to the delegate of the Russian Federation, a way to solve the issue of Darfur would be by the strengthening of the mandate of the Special Rapporteur on the Sudan, which already includes all serious human rights issues.

Cuba declared that a solution to Darfur required a long-term development and a cooperation strategy, as proposed by the Special Rapporteur on the right to food, but that this was not being addressed. It also commented that States should concentrate on the efforts to strengthen the capacity of the Human Rights Council.

Three countries made general comments on the draft resolution.<sup>7</sup> They all welcomed the consensus surrounding the adoption of the resolution as an illustration that it was possible to work together, and called on the cooperation of the Sudan. Switzerland declared that it was vital that the resolution be implemented in an effective manner. France stressed the importance of cooperating with international justice to put an end to the most serious violations of human rights. The Republic of Korea urged the group to start its work as soon as possible.

## Resolution on combating defamation of religions

Pakistan (on behalf of the OIC) presented the draft resolution on combating defamation of religions.<sup>8</sup> It noted that the resolution on defamation of religions had been adopted last year at the General Assembly,<sup>9</sup> but the

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<sup>5</sup> Cuba, China, the Russian Federation, and Japan.

<sup>6</sup> Three out of five experts went to Chad and did not visit Darfur.

<sup>7</sup> Switzerland, the Republic of Korea, and France.

<sup>8</sup> A/HRC/4/L.12, 26 March 2007. Available at [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/4/L.12](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/4/L.12)

<sup>9</sup> A/Res/61/164, 21 February 2007. Available at <http://daccessdds.un.org/doc/UNDOC/GEN/N06/504/27/PDF/N0650427.pdf?OpenElement>

OIC believed that there was a need to emphasise the magnitude of the issue at the Council, particularly when targeted against Islam and its adherents. The delegate explained that Islamophobia was manifested in the association of Islam with terrorism, with inferiority to the West and with sexism, to the point that anti-Muslim hostility is seen as a normal phenomenon. It has also been validated through systematic profiling, inferring notions of guilt and crime. The draft resolution has been discussed in several open-ended consultations, which had resulted in attempts to accommodate the views of all concerned parties. The representative of Pakistan then made some final oral amendments to the draft resolution on the floor, including a reference to the latest report of the Special Rapporteur on racism, xenophobia, racial discrimination and related intolerance, Operative Paragraph 7 on the dissemination of racist and xenophobic ideas and reference to the defamation of all religions.<sup>10</sup>

Germany (on behalf of the EU) called for a vote. The resolution was adopted with 24 votes in favour, 14 votes against and nine abstentions. The Philippines stated that everyone has the right to respect from others, and continuing interfaith dialogue will promote peace and potential.

Although States reiterated their condemnation of defamation of religion, a number of those who voted against or abstained explained their objection on the primary grounds that the resolution emphasises only Islam and was therefore not balanced.<sup>11</sup> Germany (on behalf of the EU) expressed that defamation or any means of discrimination is not only suffered by Islam, but happens worldwide and not limited to certain religions, as mentioned in the report of Special Rapporteur on racism. Guatemala added that the draft signalled selectivity on the part of the OIC, and should also include the defamation against religions that were not officially accepted by national governments.

Switzerland stated that the resolution should be about discrimination instead of defamation. Germany (on behalf of the EU) elaborated that the concepts of defamation and discrimination are problematic, but proclaimed that discrimination falls under the scope of human rights law as expressed in the *International Covenant of Civil and Political Rights* (ICCPR), which already prohibits any form of incitement to religious hatred. A resolution on defamation of religions aims to protect the religion itself rather than the individuals who practice those religious beliefs.

Canada argued that the draft resolution does not reflect the protection of freedom of thought, belief, opinion and expressions as enshrined in the Articles 18 and 19 of the ICCPR.<sup>12</sup> Brazil, supported by Argentina, abstained on the grounds that Operative Paragraph 10 states that freedom of expression may be subject to limitations without defining its criteria.<sup>13</sup> India abstained and expressed its concern that the concept of defamation could become a means to abuse the right to freedom of expression. India also stated that the draft resolution did not envisage a role for the Special Rapporteur on the freedom of religion or belief or Special Rapporteur on the right to freedom of expression and opinion, whereas these should be the two most relevant Rapporteurs.

Other resolutions/decisions adopted by vote

### **Human rights and unilateral coercive measures**

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<sup>10</sup> A new Preambular Paragraph 6 was inserted to read : “Welcoming the Report .... (E/CN.4/2006/17) also his annual report (A/HRC/4/19) presented to the Human Right Council in the fourth session in which he draw the attention to the serious nature of defamation to all religion and to promote the fight in this phenomena”. OP 7 now should read: “...to prohibit the dissemination including through political institutions and organizations of racist and xenophobic...”. OP 12 now should read: “The Special Rapporteur ...enjoyment of all rights at the 6<sup>th</sup> session of Human Rights Council.”

<sup>11</sup> Supported by Canada, Germany on behalf of the EU, Japan, Peru, and the Republic of Korea.

<sup>12</sup> Supported by Switzerland.

<sup>13</sup> Supported by Argentina and the Republic of Korea.

Cuba, on behalf of the Non Aligned Movement (NAM), presented a draft resolution on 'Human Rights and Unilateral Coercive Measures'.<sup>14</sup> The draft resolution was originally submitted at the 2<sup>nd</sup> session of the Human Rights Council and was postponed. China orally presented the revised draft at the 4<sup>th</sup> session,<sup>15</sup> calling for all States' attention on the implications and negative impacts of unilateral coercive measures, in particular towards the populations of affected countries. Cuba considered such negative impacts as a breach of the *Universal Declaration of Human Rights* (UDHR), including the right to adequate living, the right to food and the right to health. Cuba (on behalf of NAM) therefore called upon all States to adopt the draft resolution by consensus. The President of the Council clarified that the draft resolution has no financial implications. Germany, however, called for a vote.

The draft was adopted by vote as follows: 32 in favour, 12 against, and one abstention. Tunisia and Nigeria took the floor to give comments after the vote as they were not present in the room when the voting took place. Both were in favour for the draft resolution and asked the Secretariat to note their preferences in the minutes of the meeting.

### **Strengthening of the OHCHR**

China, on behalf of the Like Minded Group (LMG) and South Africa, tabled a draft resolution on 'Strengthening of the Office of the United Nations High Commissioner for Human Rights'.<sup>16</sup> In addition to the text that was before the Council, China added new elements in the draft resolution; namely that the High Commissioner take further measures to implement the Geographic Information Unit (GIU) with a view to improve the balance of the staff of the Office. China noted that three rounds of open-ended informal consultations had been held to discuss the draft resolution, starting from last September. The President of the Council noted that there were additional co-sponsors to the resolution and that it carried no financial implications.

Germany (on behalf of the EU) noted the importance of this issue in relation to the protection and promotion of human rights, particularly in relation to the independence of the Office. It commented, however, that the Council had no jurisdiction to address administrative and budget issues related to the OHCHR. Such issues were addressed by the Fifth Committee of the General Assembly.<sup>17</sup> Germany (on behalf of the EU) called for a vote and stressed that the EU would abstain on the draft resolution.<sup>18</sup> Morocco regretted that the amendment made by China was presented at the very last minute and stressed that adequate time should be given to delegations to read the draft. The President of the Council agreed with the statement made by Morocco. The draft was adopted by vote as follows: 35 in favour, 0 against, and 12 abstentions.

In its explanation of the vote, Japan stated that while voting in favour of the resolution, it regretted that due to the amendment the draft resolution cannot be adopted by consensus. Japan also noted that in relation to Paragraph 9, the resources for promoting and protecting the right to development have already been allocated to the OHCHR. It would therefore have been more accurate if the words "continue to" had been placed before the word "devote".

### **Globalisation and its impacts on the full enjoyment of all human rights**

China, on behalf of the Like Minded Group (LMG) and South Africa, presented a draft resolution on 'Globalization and its Impacts on the Full Enjoyment of All Human Rights'.<sup>19</sup> China stated that globalisation is not equally enjoyed by all countries. It also emphasised the difficulties faced by developing countries in terms of globalisation. Adequate measures are needed to alleviate the gaps between developed and developing

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<sup>14</sup> A/HRC/2/L.14, 2 October 2006 is available at on the OHCHR extranet which can be accessed at <http://portal.ohchr.org> (fill out the form on [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive the user name and password).

<sup>15</sup> The written revised draft is not yet available.

<sup>16</sup> A/HRC/4/L.15, 3 October 2006 is available at on the OHCHR extranet which can be accessed at <http://portal.ohchr.org> (fill out the form on [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive the user name and password).

<sup>17</sup> Canada.

<sup>18</sup> Canada and Morocco also took the abstain position.

<sup>19</sup> A/HRC/4/L.16, 28 March 2007 is available at on the OHCHR extranet which can be accessed at <http://portal.ohchr.org> (fill out the form on [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive the user name and password).

countries and to assist developing countries in the full enjoyment of all human rights. Two rounds of consultations were held to discuss this draft resolution. The President of the Council noted that the draft has no financial implications.

Germany (on behalf of the EU) commented that globalisation consists of multidimensional aspects, including both negative and positive effects. In positive terms, globalisation could be used to improve human rights, including the alleviation of poverty. The EU argued that the draft only focuses on the negative effects, and was therefore imbalanced and inaccurate. On this basis, the EU called for a vote and voted against the draft.

The draft was adopted by vote as follows: 34 in favour, 13 against, and zero abstentions.

After the vote, Japan took the floor, stating that it believed that globalisation has significant impacts on human rights. It noted that the draft only focuses on economic issues rather than on human rights. It therefore urged the Council to concentrate on human rights and not on economic matters. Japan voted against the draft.

#### Other resolutions/decisions adopted by consensus

Cuba (on behalf of NAM) introduced a draft resolution on the **right to development**.<sup>20</sup> Cuba called for further elaboration on an international convention on the right to development that would set out a roadmap for the implementation of the right to development. The resolution was adopted by consensus. After the vote both Germany (on behalf of the EU) and Canada reiterated the importance of the right to development, and welcomed the idea of further defining the criteria of the right to development. However, both stated this should not lead to a legally binding instrument, that global partnership is the best way forward. Germany were concerned that any attempts to create a legally binding instrument would result in a politicised debate. Instead the realisation of the right should be based on appropriate action by States, mutual commitment, and accountability.

Cuba (on behalf of NAM) presented a draft decision on the **enhancement of international cooperation in the field of human rights**.<sup>21</sup> Cuba stated that cooperation in the promotion and protection of human rights is an essential pillar of the Council, as stated in General Assembly *Resolution 60/251* creating the Council, and it is in this spirit that NAM has introduced the draft. The draft is a short action-oriented decision seeking to collect information on ways and means to promote international cooperation to more effectively promote and protect human rights. The draft decision was adopted by consensus.

South Africa presented its resolution on the **rectification of the legal status of the Committee on Economic, Social and Cultural Rights**.<sup>22</sup> South Africa stated that the resolution would lead to the rectification of the Committee by placing it on par with other treaty monitoring bodies. This would begin with the assessment of the views, proposals and suggestions of the Committee on Economic, Social and Cultural Rights itself. The resolution was adopted by consensus.

Germany (on behalf of the EU) introduced a resolution on the **elimination of all forms of intolerance and of discrimination based on religion or belief**.<sup>23</sup> Germany stated that the resolution would work to eradicate intolerance against all religions. Germany orally amended the resolution so that the Special Rapporteur on freedom of religion or belief would report to the Council at its 6<sup>th</sup> session. Cuba expressed concern that the resolution was a serious challenge to the institution-building process in that it prejudged the Council's decision on mandates. Guatemala and India stated this has no implications on the institution-building process and that all States must commit themselves to the institution-building process. The resolution was adopted by consensus.

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<sup>20</sup> A/HRC/2/L.15.

<sup>21</sup> A/HRC/2/L.18.

<sup>22</sup> A/HRC/4/L.17.

<sup>23</sup> A/HRC/4/L.13.

## Concluding Statements

At the end of the morning meeting, the President opened the floor for any concluding statements related to the adoption of decisions. Zimbabwe opened by stating that the economic sanctions placed on it by the European Union were illegal and should be lifted at once. Further, the United Kingdom must provide the land reform money promised to Zimbabwe at the time of their independence. The Russian Federation stated that no resolutions passed during the session should draw the special rapporteurs away from their work on their individual reports. They also drew attention to the fact that certain documents had not been translated into all UN languages, particularly Russian, in a timely enough manner to prepare for the meetings of the Council. China stated that no resolutions adopted in this session of the Council should have any effect on the evaluation of special procedures.

Despite an interjection by the President urging them not to re-open debates and to focus only on issues related to the day's work, Brazil stated that the death penalty is a direct violation of the right to life and associated itself with the commitment to end the death penalty.

Adoption of the report of the 4<sup>th</sup> session and other issues

## Postponement of drafts

The President proposed that several drafts be postponed until the 5<sup>th</sup> session of the Council. These were:

- The use of mercenaries as a means of violating human rights and impeding the exercise of the right to peoples to self-determination;<sup>24</sup>
- World Programme for Human Rights Education;<sup>25</sup>
- The Israeli violations of religious and cultural rights in the Occupied East Jerusalem;<sup>26</sup>
- Human rights situation in the Occupied Palestinian Territory.<sup>27</sup>

The Council decided by consensus to postpone these resolutions to the 5<sup>th</sup> session. The President also suggested that five other resolutions be postponed to one of the coming sessions of the Council, without specifying to which session. The drafts relate to the rights of the child;<sup>28</sup> Sri Lanka;<sup>29</sup> impunity;<sup>30</sup> freedom of opinion and expression;<sup>31</sup> and the rights of indigenous peoples.<sup>32</sup> The Council agreed by consensus to postpone these draft resolutions as well.

## Presentation of the report on the Session

The Vice-President of the Council, Ambassador Musa Burayzat of Jordan, was not available to give the presentation on the procedural discussion of work on the 4<sup>th</sup> session of the Council.<sup>33</sup> Instead, the Secretary of the Council presented the report, explaining that the document contained the substance of the discussions during the 4<sup>th</sup> session. It also included the voting records, and the decisions from the morning session in an

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<sup>24</sup> A/HRC/2/L.19.

<sup>25</sup> A/HRC/2/L.30.

<sup>26</sup> A/HRC/4.L.3.

<sup>27</sup> A/HRC/4/L.4.

<sup>28</sup> A/HRC/2/L.33/Rev.1.

<sup>29</sup> A/HRC/2/L.37.

<sup>30</sup> A/HRC/2/L.38/Rev.1.

<sup>31</sup> A/HRC/2/L.42/Rev.1.

<sup>32</sup> A/HRC/2/L.43.

<sup>33</sup> A/HRC/4/L.10.

addendum. He requested that any comments or corrections should be submitted to the Vice-President prior to 15 April 2007.

### **Closing remarks by the President**

The President noted in his closing remarks that the level of participation and the degree of commitment shown during the 4<sup>th</sup> session was encouraging, in particular the high number of dignitaries present during the High-Level Segment. Looking back on the 4<sup>th</sup> session, the President noted that resolutions and decisions were not the only outcome, bearing in mind that dialogue was a way of acting for human rights. With such dialogue, the Council would be able to cover a wide breadth of subjects. In that regard, he expressed his appreciation for the special events on violence against children and the rights of persons with disabilities. According to the President, the *Convention on the Rights of Persons with Disabilities* reflects the good work of the Council. He also noted the cooperation shown at the session, especially in the adoption of the follow-up to the first and third special sessions.

Looking into the weeks to come, he stated that the institution-building process should now take priority. He stressed that the time had come for negotiating and for reducing the distance between positions, and expressed his confidence in the Council's ability to finish the tasks entrusted to it by 18 June. He reiterated his availability to facilitate the necessary consultations until midnight on 18 June, and stressed that continued dialogue would help the intensive rounds of consultations lying ahead.

### **Other Issues**

At the beginning of the afternoon segment, the Secretariat of the Council took the floor to inform all delegations that a statement delivered by a representative of the NGO Liberal International had been taken off the record.<sup>34</sup> It appeared that the speaker had been provided a badge to enter the UNOG premises and Room XVII (17) by mistake, and should not have been authorised to do so. The Secretariat said they were now working together with UNOG and the security services to clarify the issue. China regretted the incident, and appreciated the timely actions taken by the Secretariat and UNOG. They reiterated their support for NGO participation in the Council. Cuba also thanked the Secretariat for the explanation, and asked that the report of the investigation be sent to the President of the NGO Committee in New York. The President reminded all NGOs to be very careful when accrediting representatives and to respect the rules and administrative procedures applicable.

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<sup>34</sup> The statement had provoked a Right of Reply from China; see the *Council Monitor Daily Update* of 29 March 2007, available at [http://www.ishr.ch/hrm/council/daily\\_updates](http://www.ishr.ch/hrm/council/daily_updates).

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